

2001

State of Utah v. Wade Willis : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

STATE OF UTAH,

Plaintiff/Appellee,

v.

WADE WILLIS,

Defendant/Appellant.

Case No. 20010495-CA

Priority No. 2

BRIEF OF APPELLEE

**APPEAL FROM A CONDITIONAL GUILTY PLEA TO POSSESSION OF A
FIREARM BY A RESTRICTED PERSON, A SECOND-DEGREE FELONY, IN
THE FOURTH JUDICIAL DISTRICT COURT, STATE OF UTAH, THE
HONORABLE GARY D. STOTT PRESIDING**

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FILED
Utah Court of Appeals

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STATE OF UTAH,

Plaintiff/Appellee,

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WADE WILLIS,

Defendant/Appellant.

Case No. 20010495-CA

Priority No. 2

BRIEF OF APPELLEE

JURISDICTIONAL STATEMENT

Defendant appeals his conviction resulting from his conditional guilty plea to possession of a firearm by a restricted person, a second-degree felony in violation of Utah Code Ann. § 76-10-503 (Supp. 2001), in the Fourth Judicial District Court, State of Utah, the Honorable Gary D. Stott Presiding. This Court has jurisdiction under Utah Code Ann. § 78-2a-3(2)(e) (Supp. 2001).

ISSUE PRESENTED ON APPEAL AND STANDARDS OF REVIEW

Issue: Whether Utah Code Ann. § 76-10-503, prohibiting the possession or use of a firearm by a restricted person, accords with article I, § 6 of the Utah Constitution, which allows the Utah Legislature to restrict the “lawful use” of firearms.

Standard of Review: A trial court’s ruling on a motion to dismiss based on a claim that a statute is unconstitutional is reviewed for correctness. *State v. Herrera*, 1999

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

The constitutional provision central to this appeal is set forth below:

Utah Constitution, art. I, § 6

The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for the other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful use of arms.

STATEMENT OF THE CASE

Defendant was charged on August 15, 2000, with possession of a firearm by a restricted person, a second degree felony in violation of Utah Code Ann. § 76-6-503(2)(a), and theft, a second degree felony, in violation of Utah Code Ann. §§ 76-6-404 and 76-6-412(1)(a)(ii) (R. 2). He was bound over for trial following a preliminary hearing on October 4, 2000 (R. 18).

On January 4, 2001, defendant filed a motion to dismiss, claiming that Utah Code Ann. § 76-10-503 is unconstitutional because it violated the right to bear arms guaranteed by article I, § 6 of the Utah Constitution (R. 45, 124). The trial court denied the motion, noting that this Court in *State v. In*, 2000 UT App 358, 18 P.3d 500, had upheld the validity of Utah Code Ann. § 76-10-503 against a claim that it violated article I, § 6 (R. 141-43).

Willis pleaded guilty to possession of a firearm by a restricted person on the

condition that he be allowed to appeal the denial of his motion to dismiss (R. 164-71). He was sentenced to 180 days in the Utah County Jail, although he was eligible for work release after 90 days, and supervised probation for 36 months (R. 180-82).

Defendant timely appealed (R. 184).

STATEMENT OF FACTS

As a convicted felon, defendant knew he was prohibited from possessing a gun (R. 190:3). For that reason, he was hard-pressed to explain the presence of the 9-millimeter handgun in his bedroom closet (R. 191:15-16). At first, he stated that the handgun had been given to him by his brother-in-law's mother, who asked defendant to store it in his bedroom (R. 191:22). Later, defendant claimed the gun had been given to him as collateral for a loan (R. 190:2).

His brother-in-law, however, told a different story. In late July 2000, Jonathan Coones reported to police that the handgun had been stolen from his motor home (R. 191:6). Coones knew defendant had seen the weapon and had access to the motor home, so he asked defendant whether he had "borrowed" the gun (R. 191:7). Defendant stated that he had not (*id.*).

On August 1, 2000, Eric Price, the Adult Probation and Parole Officer assigned to monitor defendant, received a phone call from Officer Brad Mitchell of the Spanish Fork Police Department (R. 191:14-15, 18, 20). Officer Price conducted a search of defendant's residence and discovered the 9-millimeter handgun (R. 191:15). Officer

Mitchell arrived soon thereafter and confirmed that the serial number on the recovered handgun matched that of the gun Coones reported stolen (R. 191:21).

SUMMARY OF ARGUMENT

Defendant's argues that Utah Code Ann. § 76-10-503 is facially unconstitutional because it violates article I, § 6 of the Utah Constitution. This argument must be rejected for several reasons. First, it fails because this Court's decision in *State v. In* upheld Utah Code Ann. § 76-10-503 against precisely the same constitutional challenge now posed by defendant. Second, defendant's argument fails because his interpretation of article I, § 6 it is not supported by the plain meaning of the text. Third, defendant's argument is contrary to the historical development of the right to bear arms and the explicit legislative history of the Utah Constitution.

ARGUMENT

Defendant claims Utah Code Ann. § 76-10-503 is facially unconstitutional because it abridges the right to bear arms as stated in article I, § 6 of the Utah Constitution. In analyzing the constitutionality of a statute, "we construe the legislation, to the extent possible, as being in compliance with the federal and state constitutions." *Herrera*, 1999 UT at ¶ 18. Moreover, "[w]hen reviewing the constitutionality of a statute, we must presume that the statute is constitutional." *State v. Krueger*, 975 P.2d 489, 495 (Utah App.1999). "We resolve any reasonable doubts concerning legislation in favor of constitutionality." *Id.* "A facial challenge to a legislative Act is . . . the most difficult

challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid.” *United States v. Salerno*, 481 U.S. 739, 745 (1987). A facial challenge succeeds only when the statute at issue is incapable of any valid application. *State v. Lafferty*, 2001 UT 19, ¶ 78, 20 P.3d 342. Thus, a single valid application of the statute is sufficient to defeat a facial challenge. Because the statute is clearly valid as applied to defendant, his facial challenge must fail. *See Herrera*, 1999 UT at ¶ 50 (facial challenge fails if challenged statute is valid as applied to defendant).

**ARTICLE I, § 6 OF THE UTAH CONSTITUTION DOES NOT
PROTECT THE RIGHT OF A CONVICTED FELON TO
“POSSESS” A FIREARM.**

Defendant claims the Utah Constitution guarantees him the right to “possess” a firearm, even though he is a convicted felon. Br. Appt. at 8. Thus, he argues that he cannot be convicted of violating Utah Code Ann. § 76-10-503(2), which provides that “a Category I restricted person who purchases, transfers, possesses, uses, or has under his custody or control . . . any firearm is guilty of a second degree felony” Defendant is a “Category I” restrict person because he was on parole for evading a police officer, a third-degree felony, at the time of his arrest on August 1, 2000¹ (R. 191:15).

¹ This conviction was only one of numerous offenses committed by defendant as a juvenile and as an adult between November 1997 and February 2001. *See* Adult Probation and Parole Presentence Investigation Report, dated May 5, 2001 (R. 190 3-9)

The crux of defendant's argument is that 1984 amendments to article I, § 6 of the Utah Constitution limited the Legislature's power to regulate firearms. As originally worded, the provision stated:

The people have the right to bear arms for their security and defense, but the Legislature may regulate the exercise of this right by law.

In its current version, as amended in 1984, the provision reads:

The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful *use* of arms.

Utah Const. art. I, § 6 (emphasis added). In defendant's reading of the amended provision, the Utah Legislature stripped itself of the power to restrict the "possession" of firearms by confining itself only to regulating the "use" of firearms. Br. Appt. at 7-8. Thus, in defendant's view, convicted felons like defendant have every right to "possess" guns so long as they do not "use" them.

This contention cannot be seriously entertained. As demonstrated below, defendant's argument is not supported by any logical reading of article I, § 6, nor by the legislative history of the provision.

A. *State v. In* is Dispositive of Defendant's Claims Because It Holds that Article I, § 6 Does Not Prevent the State from Prohibiting the Possession of Firearms by a Felon.

Defendant claims the trial court erred in denying his motion to dismiss after determining that *State v. In* disposed of his claim that Utah Code Ann. § 76-10-503 was unconstitutional. Defendant argues that *In* is distinguishable because that case dealt with the actual use of firearm as opposed to mere possession. Br. Appt. at 5-6. However, defendant is mistaken. *In* controls.

In involved a defendant who pleaded guilty to discharging a firearm from a vehicle. 2000 UT App at ¶ 2. One week later, defendant was involved in another “shootout”. *Id.* During an investigation, defendant admitted he was in *possession* of a handgun. *Id.* Defendant was charged with *possession* of a dangerous weapon by a restricted person, in violation of Utah Code Ann. § 76-10-503. *Id.*

On appeal, defendant claimed the statute was an unconstitutional restriction of his right to bear arms. *Id.* at ¶ 3. This Court rejected that argument, noting that “[t]his statute only restricts that right [to bear arms] under very limited circumstances – such as a felony indictment or conviction.” *Id.* at ¶ 14. Thus, this Court upheld the constitutionality of Utah Code Ann. § 76-10-503 against a challenge by a convicted felon charged with possession of a firearm – exactly the same challenge now made by defendant herein. Although the *In* defendant did not explicitly argue the use/possession distinction, *In* is still controlling because it stands for the proposition that a convicted felon has no right to

possess a firearm under article I, § 6 – a holding that is obviously applicable to defendant. Accordingly, *In* is dispositive and the trial court’s denial of defendant’s motion to dismiss should be affirmed.

B. The Plain Meaning of Article I, § 6 Demonstrates Legislative Intent to Restrict the Use of Weapons by Convicted Felons.

Defendant contends that the plain meaning of article I, § 6 supports his argument that Utah Code Ann. § 76-10-503 is unconstitutional. Br. Aplt. at 8. Defendant correctly notes that a court, in considering the constitutionality of a statute, “must begin its analysis with the plain language of the provision. . . .” *Utah School Boards Ass’n v. Utah State Bd. of Education*, 2001 UT 2, ¶ 13, 17 P.3d 1125. Defendant errs, however, in suggesting that a plain reading of article I, § 6 supports his strained interpretation. On the contrary, defendant’s interpretation relies on a hyper-technical and overly restrictive reading of the provision’s final clause, which states “nothing herein shall prevent the legislature from defining the lawful *use* of arms.” Utah Const. art. I, § 6 (emphasis added). Although he is not explicit on this point, defendant’s argument seems to rely on limiting the “use” of a gun to the active employment of the weapon, *e g* . firing it, brandishing it or using it in the commission of a crime. “Possession,” on the other hand, is presumably passive – carrying, storing, perhaps even handling – anything that is not actively “using” the weapon.

However, the amended language of article I, § 6 need not be defined so narrowly. Under the plain ordinary understanding of the words, “use” and “possession” are not mutually exclusive terms; in fact, they are inextricably linked. *See* Black’s Law Dictionary 1183 (7th ed. 1999) (defining “possession” as “the continuing exercise of a claim to the exclusive use of a material object”); *see also* *U S v. Trotter*, 270 F 3d 1150, 1153 (7th Cir. 2001) (“[U]se of a drug implies its possession”). And while the distinction between active “use” and mere “possession” is clearly cognizable for some purposes – the gun collector, for example, could be said to merely “possess” weapons without “using” them – such “possession” can be as readily characterized as a kind of “use” – a *passive* use, but a “use” nonetheless. Thus, nothing compels the artificially narrow construction urged by defendant.

Moreover, there are at least two reasons to prefer a broader reading of article I, § 6. First, a broader reading allows this Court to avoid invalidating Utah Code Ann § 76-10-503, which would accord with the principle of construction that favors a constitutional interpretation whenever possible. *See, e g*, *Herrera*, 1999 UT at ¶ 18 (reasonable doubts resolved in favor of constitutionality); *Krueger*, 975 P 2d at 495 (statutes are presumed constitutional).

Second, the narrow interpretation urged by defendant should be rejected because it would yield absurd and contradictory results – results that could not have been intended by Utah lawmakers. As the U S. Supreme Court has stated: “No rule of construction

necessitates our acceptance of an interpretation resulting in patently absurd consequences.” *U.S. v. Brown*, 333 U.S. 18, 27 (1948)); accord *In re Overland Park Fin. Corp.*, 236 F.3d 1246, 1252 (10th Cir. 2001) (“[C]ourts will reject an interpretation of a statute that produces an absurd result”); *Moormeister v. Dep’t of Registration*, 288 P. 900, 903 (Utah 1930) (court must reject interpretation of statute that yields absurd results) (Cherry, C.J., concurring). Under defendant’s view, criminal background checks required for the purchase of a gun would be useless against the felon who represents that he wishes to merely to “possess” a weapon, but not “use” it. Similarly, any restrictions on concealed weapons would likely be unenforceable given that carrying a concealed weapon could be deemed mere “possession.” Metal detectors at courthouses, government offices and airports would be pointless if citizens have the unencumbered right to “possess” firearms. Perhaps even prison inmates could claim a right to possess guns. In short, a would-be gunman could not be legally penalized or even confronted until he actually began to “use” the gun, by which point the damage would be done.

Obviously, lawmakers could not have intended such bizarre consequences. Moreover, nothing in the text of article I, § 6 requires such an interpretation. Accordingly, defendant’s claim that he cannot be penalized for possessing a handgun is unpersuasive. Defendant’s conviction of possession of a handgun by a restricted person should be affirmed.

C. The 1984 Amendment to Article I, § 6 Did Not Give Convicted Felons the Right to “Possess” Firearms.

As shown above, the plain language of article I, § 6 does not support defendant’s position. If defendant has proven anything, it is only that a review of the history of the provision, both the original and amended versions, might further clarify the issues he raises.

During the 1983 and 1984 sessions of the Utah Legislature, lawmakers considered amendments to article I, § 6 which would explicitly state that the provision protected the rights of individual gun owners, not merely the collective right of a state “militia.” See House Debate on Senate Joint Resolution No. 2, dated March 7, 1983 (R. 84-94), a copy of which is attached as Addendum A. Their concern was based on decisions by the Utah Supreme Court and elsewhere recognizing that the Second Amendment to the U.S. Constitution protected only the collective right to bear arms. *Id.*; see also *State v. Vlacil*, 645 P.2d 677, 679 (Utah 1982) (“Since the Second Amendment right ‘to keep and bear Arms’ applies only to the right of the State to maintain a militia and not to the individual’s right to bear arms, there can be no serious claim to any express constitutional right of an individual to possess a firearm”).

Representatives also wanted to make sure that any amendment to article I, § 6 did nothing to restrict the traditional ability of the state to regulate the use of firearms, particularly with regard to convicted felons (R. 87). This concern is clear in the following colloquy between the House speaker and the amendment’s House sponsor:

MR. SPEAKER: Would this [the 1983 amendment] preclude registration of handguns and Saturday night specials?

REP. HARRISON: Well, I hope, hopefully it wouldn't. My authority over here tells me "no way." Okay, as he points out, this does not specifically address registration. It simply gives us our right to bear arms for the specific things that are addressed in here. ***And it doesn't preclude legislation concerning concealed weapons or felons or any prohibitive person from being, those rights being taken away from.***

MR. SPEAKER: Would it be permissible for the Legislature, after passage of this constitutional amendment, to then require registration of Saturday night specials?

REP. HARRISON: He says, "Yes, if they wanted to." It was permitted.

MR. SPEAKER: Assuming that the person acquiring the Saturday night special ***was a law-abiding citizen and had not been convicted of a prior felony***, could the Legislature prevent his acquisition of a Saturday night special or any handguns?

REP. HARRISON: If they wanted to.

(R. 86-87). This version of the bill passed the House, but apparently was not approved by the Senate (R. 78, 84).

The following year, lawmakers again considered amendments and finally agreed on the current version of article I, §6, which was approved by voters in the November 1984 general election. Once again, lawmakers made it clear that the intent of the amendment was to protect the rights of individual gun owners without affecting the traditional ability of lawmakers to restrict the availability of weapons to certain classes of individuals, including convicted felons. In the Voter Information Pamphlet prepared by the lieutenant governor's office, Sen. Jack M. Bangerter and Rep. Donna M. Dahl, sponsors of the amendment in the Senate and House, respectively, stated:

The amendment specifically guarantees broad individual liberties and protects the enjoyment of those liberties from infringement. At the same time, *the legislature may continue to enact laws against the misuse of arms* and the police may continue to enforce such laws, enforcement would extend to seizing arms which are misused.

An individual right to keep and bear arms is guaranteed. However, *convicted felons*, mental incompetents, minors, and illegal aliens would not be guaranteed this right. *The principle of law that such persons may be excluded from the enjoyment of the right to keep and bear arms is well-established.*

Voter Information Pamphlet, dated November 6, 1984 (R. 69-73) (emphases added), a copy of which is attached as Addendum B

As noted by Sen. Bangerter and Rep Dahl, excluding certain classes of individuals from the right to bear arms has a long historical pedigree. As originally conceived in the common law and understood by the Founding Fathers, the right to bear arms was limited to “law-abiding citizens.” *State v Hirsch*, 34 P.3d 1209, 1211 (Or App 2001) (citing Stephen P. Halbrook, *The Original Understanding of the Second Amendment*, in *The Bill of Rights: Original Meaning and Current Understanding*, 117, 121 (Eugene W. Hickok, Jr., ed., 1991). As one historian noted:

Felons simply did not fall within the benefits of the common law right to possess arms. That law punished felons with automatic forfeiture of all goods, usually accompanied by death. We may presume that persons confined in [jails] awaiting trial on criminal charges were also debarred from the possession of arms. Nor does it seem that the Founders considered felons within the common law right to arms or intended to confer any such right upon them. All the ratifying convention proposals which most explicitly detailed the recommended right-to-arms amendment excluded criminals and the violent.

Don B. Kates, Jr., *Handgun Prohibition and the Original Meaning of the Second Amendment*, 82 Mich. L Rev 204, 266 (1983);² see also Glenn Harlan Reynolds, *A Critical Guide to the Second Amendment*, 62 Tenn L Rev 461, 480 (1995) (“[F]elons, children, and the insane were excluded from the right to arms precisely as (and for the same reason) they were excluded from the franchise”); Akhil Reed Amar, *The Bill of Rights as a Constitution*, 100 Yale LJ 1131, 1164 (1991) (right to bear arms, like right to vote, accrues to citizens, not all people). In sum, the right to bear arms has historically been denied to those who violate the law, thus proving themselves unworthy of the right.

The wording of article I, § 6, both before and after the amendment, evinces an intent to adopt a limited right to bear arms, one that may be regulated by the Legislature. This approach is also consistent with the interpretation of state constitutional provisions guaranteeing the right to bear arms in other jurisdictions. See, e.g., *People v. Blue*, 544 P.2d 385, 391 (Colo. 1975) (“To limit the possession of firearms by those who, by their past conduct, have demonstrated an unfitness to be entrusted with such dangerous instrumentalities, is clearly in the interest of the public health, safety, and welfare and within the scope of the Legislature’s police power”) (citation and internal quotation marks omitted).

Thus, the debates concerning the 1984 amendment to article I, § 6, as well as the historical backdrop, demonstrate that lawmakers realized the importance of restricting the

² Quoted in *Hirsch*, 34 P.3d at 1211.

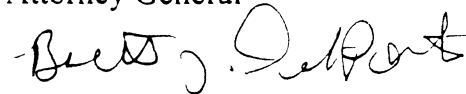
use or possession of firearms by felons and that they acted purposefully to safeguard that prerogative. Accordingly, defendant's claim that the Utah Constitution granted him a right to possess a handgun must fail and Utah Code Ann. § 76-10-503 is not unconstitutional.

CONCLUSION

For the foregoing reasons, the State respectfully requests that defendant's conviction be affirmed.

RESPECTFULLY SUBMITTED this 1st day of March 2002

MARK L. SHURTLEFF
Attorney General

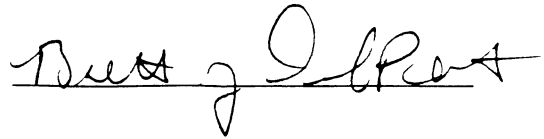
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CERTIFICATE OF MAILING

I hereby certify that two true and accurate copies of the foregoing Brief of Appellee were mailed, postage prepaid, this 1st day of March, 2002 to:

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A handwritten signature in black ink, appearing to read "Brett J. Esplin", written over a horizontal line.

ADDENDA

ADDENDUM A

HOUSE DEBATE ON
SENATE JOINT RESOLUTION NO. 2
(replaced by Senate Joint Resolution No. 3)
March 7, 1933

MR. SPEAKER: Representative Dahl.

REP DAHL: Thank you, Mr. Speaker.

?: This is Senate Joint Resolution No. 2 that was repealed in favor of Senate Joint Resolution 3.

MR. SPEAKER: Opposed.

BODY: No.

MR. SPEAKER: The motion carries. We'll read the bill.

?: Senate Joint Resolution No. 2, Right to Bear Arms, by Senator Jack M. Bangerter. Be it resolved by the Legislature of the State of Utah, two-thirds of all members elect _____.

This voting in favor thereof.

MR. SPEAKER: Representative Dahl.

REP. DAHL: Thank you, Mr. Speaker. This is a constitutional resolution that, if this passes, it will be put on the ballot a year from now for the people to vote on to see if they want to put some specific language in the Constitution. And we think that this is very, very important that this be done. And just let me tell you some of that reasoning. Utah has a need for a strong constitutional guarantee because the second amendment to the U.S. Constitution does not protect us against state infringements. And remember that the Constitution is a negative charter. The Constitution is a

instrument in which the people tell government what they can enforce and what they cannot enforce. And so we think this is very important due to some rulings that have been made. So if, what this will do will give us some rights. It will not be limitations. There are, out of 39 states which have constitutional right to keep arms provisions, only 2 of those put some _____ regulatory language in it. One of them is Illinois, which says that this right is subject only to police power. And the other one is Utah, that says that we have the right but the Legislature may regulate the exercise of that right. So this gets very scary to me because in Illinois, there has been statutes ranging from license, owner licensing, firearm registration, the prohibition against firearms outside of a residence, bans on classes of firearms--and they have all been repeatedly upheld as a proper form of police power. And it's very interesting that virtually this same language has been used by the Utah Supreme Court in two recent cases saying that the power of the State to deny ownership to a class of people is ruled as a proper action consistent with the Utah Constitution. Chief Justice Hall has said that the second amendment does not guarantee you and I individual, you and I as individuals to keep and bear arms but only as a collective right such as the militia. And we think that the, this is not consistent with what the people of this state believe and not consistent with what it should be. And so for that reason, that's another one of the many reasons why we think this ought to come before the people to change that constitution. Maybe I'll just submit to any questions that you have and proceed from

there.

MR. SPEAKER: Representative Christensen.

REP. CHRISTENSEN: Thank you, Mr. Speaker. I don't have any questions, but I'd like to give one of my long talks today, if I could.

MR. SPEAKER: We might take back that standing ovation, but you go ahead.

REP. CHRISTENSEN: I'm a loser already, aren't I? I speak in favor of this constitutional revision part. It's essential to the people of Utah. They have nurtured this right since they came here. It's one of the things that they just take for granted. Now we changed some of our _____ last year to make it more agreeable with what we've already done. And that was good. I'd just like to remind you that when the smart people who honored our country, when they made the laws and made the regulations, James Madison, I'd going to say that he'd be awful nervous if he found us nowadays trying to do the things he didn't want done, because he was, as you recall, one of those that wrote the Declaration of Independence. And where they passed this as one of their laws without even a recorded vote. It passed on a _____ years ago. And this is part of America. And, of course, they debated other things an awful lot longer. But when they passed this one, it was, there was no trouble. Everybody agreed with it. It was part of their law. Anyway, to keep it short, like I usually do, vote for this. It's good. Let's keep it up. Let's keep it, make it part of Utah.

MR. SPEAKER: Representative Fullmer. I should add, Representative Christensen, we'll still applaud. Representative Maxfield.

REP. MAXFIELD: Just a question. Are we on the

MR. SPEAKER: We're on the HSJR 2.

REP. MAXFIELD: Not the substitute?

?: No, it's on the golden copy.

REP. MAXFIELD: Well, there's the goldenrod.

?: That's not a substitute. It's just

MR. SPEAKER: The Senate amendment.

?: The Senate amendment.

REP. MAXFIELD: That's all I wanted.

MR. SPEAKER: Representative Hillyard.

REP. HILLYARD: I just rise to state my concern with this constitutional amendment. Not that I'm against the right to bear arms because I think that's an important constitutional right that we have. But I voted against SJR 8 for the reason that I did vote against Representative Taylor's constitutional amendment. As I think that we really need to vote on those things when we're in a budget session just before we take action and put them on the ballot. And, again, I'm concerned when we vote too early and set things on the ballot we may foreclose us of doing other things that may be important then. I just also say, a concern I have is that I've been a member of the Judiciary Committee since I've been a member of this body and interim study. And we've talked about having this thing come before an interim study to look at and review, and it never has. And I'm a little concerned about doing a

bill this significant that affects such a basic constitutional right without having at least the interim study look at it. And we have no problem with having it done and looking at it during the budget session so it can go on the ballot. But I've had at least expressed to me, and I've seen some writings of people that I respect in the area of criminal law who have some concern that this may limit the policeman. And, I know, I've read Senator Hatch's statement, and I've read the contrary. I guess like Representative Merrill says, there are disagreement among lawyers. But I think it would behoove us to not pass this, to look at it during the interim, and look at it during the budget session--or, if the Governor, in fact, is going to have a special session just for constitution amendments, we can then decide which one of those items in that _____ would be the most important to consider.

MR. SPEAKER: Representative Skousen.

REP. SKOUSEN: Thank you, Mr. Speaker. In regard to the statements made by Representative Hillyard, I think the fact that 39 states have made thorough studies of this situation should set our fears at rest. These states have found that the courts have interpreted the United States Constitution where it says that the citizen's right to bear arms shall not be infringed simply means that this is a collective statement. It does not apply to the individual; in other words, the National Guard may bear arms. But they have interpreted that to mean that the private citizen does not have an inalienable right to bear arms. Thirty-nine states have come to the conclusion that, in order to protect their citizens and their right to bear

arms individually, they must have this legislation. So I think the interim studies have been carried on to the extent that we need to study them. The facts are out. I believe we should vote on them now to assure ourselves that some future legislation on the right of the private persons to carry, to have guns in his possession at home, for example, and not have the law state that, from that time on, it is unconstitutional from the State's standpoint.

MR. SPEAKER: Representative Walker.

REP. WALKER: Yes. You know, I certainly support the right to bear arms. And when I read this, I talked to several lawyers whose opinion I respect, and they had some serious questions about what it did, whether we really wanted it as written. And they, there was sufficient doubt in my mind whether we shouldn't look at it further. Certainly I believe in the right to bear arms for the individual. I believe in those rights as the Constitution gives them to us. But I would really, since we can't put it on the ballot this year, I, for one, would like to have the time to really look at it, study it, and come up with some concrete support or objections. I'm not certain whether, in the long run, I would support or reject this. But I would like the time to thoroughly study it myself so that I might know for a certainty whether the questions that were brought up by those I talked to were legitimate or not, and I certainly respect their legal minds because I was seeking advice from those who I felt had, should know. And so, I would urge you to wait on this. We have another chance to vote on it. I believe, at the present time, I'll vote "no." But maybe a year from now, I'll

vote "yes" on exactly the same legislation. But I Do need that time to study it. I Do need the time to get answers to my questions, and I would urge you to do likewise.

MR. SPEAKER: Representative Kromer.

REP. KROMER: Representatives, I urge support of this bill. I think it's very clear the issue. I think all of us have read the impressive study done by Senator Hatch on subcommittee on this issue, on defining militia as the individual citizen right to bear arms. I think we've all looked at history and seen the pitiful sight of a Warsaw ghetto where the people didn't have any arms to defend themselves and are at the mercy of the government. And I'm concerned about the future, that our liberties really lie on the right to defend those liberties. And I think we, that's a basic right for an individual to bear that arm. It doesn't just mean that our security rests in the police force or the National Guard but the individual citizens. And that's the way this country's been. And I think that's where our freedom's preserved. So I urge support of this resolution.

MR. SPEAKER: Representative Moreen.

REP. MOREEN: Thank you, Mr. Speaker. I, too, would like to rise and support this. I think that we do need to do this. This is a basic fundamental right that we've had in this country, and it's important to us that live out in the boondocks. Sometimes we feel a special need for those. And I just hope that you'll support this resolution.

MR. SPEAKER: Representative Karas.

REP. KARAS: I rise in support of this. I find it interesting that we can pass a 177-page banking bill without even reading it--pardon me for making that inference--and then take a simple 2-page resolution like this that's very clear and say that we need to study it more. I think we ought to stand up and be counted and vote for it.

MR. SPEAKER: Representative Harrison, would the sponsor yield a question?

REP. HARRISON: I'll try.

MR. SPEAKER: Would this preclude registration of handguns and Saturday night specials?

REP. HARRISON: Well, I hope, hopefully it wouldn't. My authority over here tells me "no way." Okay, as he points out, this does not specifically address registration. It simply gives us our right to bear arms for the specific things that are addressed in here. And it doesn't preclude legislation concerning concealed weapons or felons or any prohibitive person from being, those rights being taken away from them.

MR. SPEAKER: Would it be permissible for the Legislature, after passage of this constitutional amendment, to then require registration of Saturday night specials?

REP. HARRISON: He says, "Yes, if they wanted to." It was permitted.

MR. SPEAKER: Assuming that the person acquiring the Saturday night special was a law-abiding citizen and had not been convicted of a prior felony, could the Legislature prevent his acquisition of a Saturday night special or any handguns?

REP. HARRISON: If they wanted to.

MR. SPEAKER: Good. Thank you. Representative Richards.

REP. RICHARDS: Mr. Speaker and fellow representatives, I'd like to call your attention to a very important body we have, and that's called the Constitution Revision Commission. I've been on that body for six years. The Speaker's been there as well. I think one of their reasons for that commission is that these things of import that would change our constitution comes before us and we get all the input that's given to us by private citizens, by organizations, by elected officers to bring it to our attention in order that we can analyze it and come back to this body with a recommendation. This particular resolution has not been before the Constitution Revision Commission. We have ample time between now and the election of, what, two years from now. We can handle it again with a recommendation from your commission. Now if you don't want a commission, you want to bypass the commission--and certainly every legislator has the right to give us a constitutional amendment--don't forget, once you get those in, they're not amendable. It's quite a bit different than a statute. If you want to make a change later on, then you have to go through the whole process again to amend it. It would be my recommendation--I have no fault with the intent of the sponsor nor Senator Bangerter who is a very able senator--but I think, in this case, they have bypassed the Constitution Revision Commission. And I think it ought to be given back, defeated on this floor now, with no intent other than to have it further studied, and then come out to you as a constitutional

recommendation as we did with Proposition 1, 2, 3 and 4, which all passed successfully because we gave public information and did all that was necessary to make it a good bill. So I would hope that you would keep the order in place of having those people who are interested in constitutional changes to bring it to the Constitution Revision Commission that meets monthly, and, from there, we can decide whether the Legislature wants to enact a bill amending the Constitution which then is not amendable. Thank you.

MR. SPEAKER: Representative Lewis.

REP. LEWIS: Thank you, Mr. Speaker. I'm new to this process, but I, too, would take some exception to bypassing or going around the Constitution Revision Commission that we have in place. I have some concerns about the language that is currently in this resolution. I would feel very good about supporting a resolution and sending it to the vote of the people to amend our constitution to guarantee this right. I do want to see more time and more input from all the parties that are interested into this, but I would especially like to see the Constitution Revision Commission have some time to look at this. And I would like to have something that I can feel very good about supporting. There's no need to be in a rush.

MR. SPEAKER: Representative Brown.

REP. BROWN: I move previous question on the bill as stated.

MR. SPEAKER: The previous question has been called for. All in favor say "aye."

BODY: Aye.

MR. SPEAKER: Opposed.

BODY:

MR. SPEAKER: The motion carries. You may sum up, Representative Dahl.

REP. DAHL: Thank you, Mr. Speaker. I think it's very important that we realize that this, they had two committees, the hold over in the Senate, it was debated very extensively, the Senate passed it 26 to 2. As far as the Constitution Revision Commission, in all due respect to them, they're not a divine body. And next session is a budget session, and this is not a budget item. It ought to be taken care of now because we don't have time to handle these kinds of things in a short budget session. So it ought to be addressed. I can't see anyone opposing this unless they want the Legislature to proceed to make rules against it. It would not prevent us from passing laws for concealed weapons or, as I mentioned before, for those people who are prohibitive and shouldn't be having this. Unless this Legislature someday hopes to enact statutory, statutes that would effectively deprive us of these rights, then there's no reason why we shouldn't support this. And I guess I would just ask for your support. I think it's a very good bill.

MR. SPEAKER: The voting is open. It appears to the Chair that all present have voted. The voting is closed on SJR 2. And having received 61 affirmative, 9 negative votes, passes this House, has been signed by the Speaker, will be returned for the signature of the President.

SENATE DEBATE ON
SENATE JOINT RESOLUTION NO. 3

March 28, 1984

?: . . . the top of second reading calendar, and I so move.

MR. PRESIDENT: Okay. It's been moved that we move SJR3 to the top of the second reading calendar. All in favor indicate by saying "aye."

BODY: Aye.,

MR. PRESIDENT: Are there any opposed? So ordered. Yes, Senator Bangerter.

SEN. BANGERTER: Thank you, Mr. President. This is, SJR3 is a constitutional amendment on the individual right to keep and bear arms.

MR. PRESIDENT: Excuse me just a moment. It needs to be read in.

SEN. BANGERTER: Oh, I make a motion that SJR No. 3 be read in.

SECRETARY: Senate Joint Resolution No. 3, the right to bear arms amendment, by Senator Bangerter.

MR. PRESIDENT: Now go ahead, Senator.

SEN. BANGERTER: Now it's before us. Thank you, Mr. President. As you remember, in 1983, we passed an SJR No. 2. It was the individual right to keep and bear arms to put before the voters in November. It had some anxiety with law enforcement people, and we have spent many, many hours together trying to resolve the problem. At this particular point, you have before you the new language in SJR3, and I'm sure that you have read it several times . . .

Legislature to control the use thereof of guns. If there are any questions, I would submit to those questions. You have, Mr. President, a question on the bill.

MR. PRESIDENT: Okay, and would you like to make that motion?

SEN. BANGERTER: Yes.

MR. PRESIDENT: Oh, yes, we have a question. Yes.

SEN. SWAN: I was still turning to Senator Bangertter. Could you explain very briefly what the change is that's been made from our previous action.

SEN. BANGERTER: We have an amendment in on the previous action that would confiscate and spell out those things the Legislature could and should do. It, they were taken out and basically affixed to therein as the basic concept that you asked for last time, Senator Swan, that we leave those things up to the Legislature and let them allow the use of arms. So basically, that's all there is to it. It's self-explanatory. All the peace officers and everyone has agreed to that, Senator Swan.

SEN. SWAN: The peace officers feel that, by changing the language and not spelling out the things that you mentioned, there's less chance that something will slip through the cracks and that some loophole in law enforcement might be found.

SEN. BANGERTER: I might explain that the peace officers are thrilled with this particular bill because it allows the Legislature that prerogative of placing in statute rather than the constitution the use thereof.

SEN. SWAN: I'm going to vote for the bill, Senator, but I think the, we have to be reminded of the fact that most of us are not that convinced that we've had any problem with the present constitutional language. I think it's more a threat to the future and a worry, and maybe I'm divulging the fact that I'm not a member of NRA. But sometimes the staff and an organization have to have issues, and I think that this is certainly a very jazzy issue for a national organization to work with. And I'm not at all thrilled with some of their past performances. I remember a concealed weapons bill, and Representative Strong in the House was nailed publicly for that, and it was, I thought it was completely inappropriate. So I don't have the greatest love for some of the past performance of some of their staff.

SEN. BANGERTER: Sen. Swan, you're entitled to vote "no" and I understand your concern. Basically, that's what it is.

MR. PRESIDENT: Okay. Senator Black.

SEN. BLACK: Yes. I think we ought to now support this. I think we had some problems with law enforcement really in opposition to what they had, for Bangertter and people from NRA and law enforcement in getting together and working out the problems that they felt that they had. I do know that they did reach agreement, that the national NRA has endorsed the concept of what we have here. And I think that a bill that might have put an amendment on the ballot that would probably, because of the adverse opposition it would have received had it gotten there in its previous form. These problems have been addressed, and I believe that we now have something we can

put to the voters that we can feel good about and support. And I would urge your support for this piece of legislation.

MR. PRESIDENT: Thank you. Any other comment? Seeing none, would you like to make that motion?

SEN. BANGERTER: Mr. President. Under suspension of the rules, I would make a motion that we pass from Senate SJR No. 3 from the second to the third reading calendar up for final passage to the House.

MR. PRESIDENT: Thank you. The motion is that, under suspension of the rules, that Senate Joint Resolution be considered be correct for the second and third time and up for final passage. All in favor indicate by saying "aye."

BODY: Aye.

MR. PRESIDENT: Are there any opposed? So ordered. If you'd please call the roll.

?: Asse--Aye, Bangertter--Aye, Barlow--Aye, Barton--____, Black--Aye, Bullon--Pass, B____--Aye, Carling--Aye, Christensen--____, Cornabee--Aye, Finlansen--Aye, Flann--Aye, Matheson--Aye, McAllister--Aye. Thank you. McMullin--Aye, Monne--Aye, Overson--Aye, Sherry(?) Peterson--Aye, Lowell Peterson--Aye, Pugh--Aye. Thank you. Rogers--Aye. Thank you. Sandberg--____, Snow--Aye, Sowards--Aye, Stratford--____. Thank you. I just can't hear. Swan--Aye, Waymot--Aye, Williams--No. Thank you. Senator Barton.

SEN. BARTON: Thank you. Mr. President. Thank you. Senate Joint Resolution No. 3, having received 26 aye votes, 1 nay vote, and 2

being absent, has received a two-thirds majority and has passed this House and will be referred to the House for its, for further action.

HOUSE DEBATE ON
SENATE JOINT RESOLUTION NO. 3

March 29, 1984

MR. SPEAKER: Representative Dahl.

REP. DAHL: Thank you, Mr. Speaker. This is the right to bear arms amendment that we passed last session to go on the ballot. I think most of you received letters. There was the peace officers, and Public Safety had some problems with that. Our attorneys and the National Rifle Association and everybody felt comfortable with it, but we didn't want to get in a conflict with them. We've sit down and had several meetings to come up with some compromise. There's some other things we'd like to have on this, but at this late date, and we are under a compromise, so the material you have in front of you is a compromise position. They are supporting this. It sets out to do what we initially set out to do last year. The Senate attacked an amendment on there last year which caused the controversy. But what we have accomplished here is that the Legislature may not take our right away to bear arms for the protection of ourself, family and property. And so, I guess, I'll just be open for any questions. I would like, I guess, to encourage no amendments at this point so that we don't have to go back to the Senate for this and we can--I would like to let you know that those individuals that worked with us have give me their word that they'll help us, whoever next year, to sponsor some legislation that will, in fact, do the things that you see on the amendment that's on your

desk that we're not going to propose.

MR. SPEAKER: Representative Christensen.

REP. CHRISTENSEN: Thank you, Mr. Speaker. Ladies and Gentlemen of the House, gun possession in the southern part of the State is just a way of life. We do it all the time. It's just part of growing up. But the concept of gun control in Utah has been here before. Now you judge how effective it was. My information tells me that the Honorable H. Jay Richards presented a bill prohibiting the sale of this type of pistol. It was the first measure that year that was produced from the body that became law, being the very first one to go to the governor to receive his signature. The sale of this dangerous article, which was then prohibited, _____ said he expressed his pleasure at such a law being enacted. Now the bill passed both houses, almost without an attempt of dissent, the only objection coming from one member who expressed himself to the effect that he considered the subject to be too trifling for a regulative action. The local paper editorialized saying, "We are gratified that this bill for the prohibition of the sale of the little implement of evil has passed and become law." This happened 100 years ago in March of 1834 and dealt with the embargo of toy pistols. Mr. Speaker, I support this amendment, this bill.

MR. SPEAKER: It doesn't mean I have to get rid of my water pistol, does it? Representative Fuller.

REP. FULLER: Thank you, Mr. Speaker. As Representative Dahl says, this is a compromise and I appreciate all the parties who have agreed upon this amendment. There have been a lot of things said

good, bad or indifferent about things that have happened. I think that this is a good compromise and it embodies the two things that I was concerned about in that the Legislature can still speak on the matter and there are a number of issues that must be addressed. I pledged, and I follow that pledge, that the grievances by the Utah Sport Shooting Council as far as Divisional Wildlife Resources is concerned that I would sponsor a bill to insure due process, and I will do that. We even have the bill ready, but the Governor did not want any more things on the call. And I think that we could handle that problem. Wildlife Resources even signed off on it. So I ask your support in this bill and that we can pass it and get it on the ballot.

MR. SPEAKER: Representative Walker.

REP. WALKER: I move the previous question.

MR. SPEAKER: The previous question's been called for. All in favor say "aye."

BODY: Aye.

MR. SPEAKER: Opposed.

BODY:

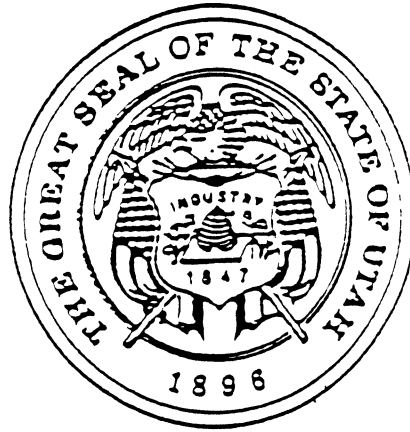
MR. SPEAKER: The motion carries. Do you wish to sum up?

?: No, I waive summation, thank you.

MR. SPEAKER: The voting is open. It appears to the Chair that all present have voted. Voting is closed. I'll send it Joint Resolution 3, and having received 62 affirmative and 1 negative votes, passes this House, has been signed by the Speaker. We return for the signature of the President of the Senate. Turn to Joint

Resolution 5. Don't interrupt me while I'm announcing a vote.
Having received 66 affirmative and 2 negative votes, passes this
House--Let's see, did we amend that here? It's moved back to the
Senate for their consideration of our amendment.

ADDENDUM B



Utah Voter Information Pamphlet

General Election
November 6, 1984

COMPILED BY DAVID S. MONSON, LT. GOVERNOR

IN COOPERATION WITH THE UTAH STATE LEGISLATURE
MILES "CAP" FERRY, SENATE PRESIDENT
NORMAN H. BANGERTER, HOUSE SPEAKER

ANALYSIS BY JON M. HEMMOTT, DIRECTOR, OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

For



Against



Proposition No. 5

RIGHT TO BEAR ARMS AMENDMENT

Vote cast by the members of the 1984 Legislature on final passage:
HOUSE (75 members): Yeas, 67; Nays, 1; Absent or not voting, 11.
SENATE (29 members): Yeas, 25; Nays, 1; Absent or not voting, 2.

Official Ballot Title:

Shall Article I, Section 6, of the State Constitution be amended to state that the individual right to keep and bear arms for the security and defense of the individual, family, others, property, or for other lawful purposes shall not be infringed, but the Legislature may define the lawful use of arms.

IMPARTIAL ANALYSIS

Proposal

The Utah Constitution in Article I, Section 6 guarantees the people the right to bear arms for their security and defense. This section also gives the legislature the authority to regulate the exercise of this right by law. The Utah Supreme Court has interpreted this section to indicate that it gives to the legislature the authority to forbid possession of dangerous weapons by those who are not citizens, who have been convicted of crimes, who are addicted to drugs, or who are mentally incompetent (*State v. Beachley* 500 P. 2d 813 1974).

The proposed amendment defines the right to bear arms further by adding language which specifies the right as an individual right of the people to keep as well as bear arms. The revision lists the things for which keeping and bearing arms for security and defense may be used. These include: (1) self, (2) family, (3) others, (4) property, or (5) the state, and other lawful purposes.

The proposed amendment deletes the provision that allows the legislature to regulate the exercise of the right to bear arms and instead gives the legislature the right to define the lawful use of arms.

The changes in this proposed revision would not affect any of the current Utah laws which forbid the possession of dangerous weapons to criminals, drug addicts or mentally incompetent persons and other illegal use of arms now defined in statute. However, further legislation concerning the right to keep and bear arms would be limited to defining the lawful use of arms.

Effective Date

The amendment, if approved by the voters, would be effective beginning January 1, 1985.

Fiscal Effect

The proposed revision of Article I, Section 6, will not have any significant fiscal impact.

Arguments for

Article I, Section 6 of the Utah Constitution is to be amended to read as follows:

The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful use of arms.

The amendment specifically guarantees broad individual liberties and protects the enjoyment of those liberties from infringement. At the same time, the legislature may continue to enact laws against the misuse of arms and the police may continue to enforce such laws; enforcement would extend to seizing arms which are misused.

An individual right to keep and bear arms is guaranteed. However, convicted felons, mental incompetents, minors, and illegal aliens would not be guaranteed this right. The principle of law that such persons may be excluded from the enjoyment of the right to keep and bear arms is well-established.

Constitutionally protected arms include rifles, shotguns, pistols and revolvers, and hunting knives. The term "arms" does not extend to every conceivable weapon or instrument. Thus, weapons not commonly kept by people, such as switch-blade knives or instruments of mass destruction, for example, rockets or bombs, find no protection under this guarantee.

The right to keep constitutionally protected arms includes the right to purchase arms and ammunition and to keep arms in a state of repair.

The object or end to be attained by this right is to guarantee that arms may be kept or borne for defensive purposes. The right is not restricted just to the specified purposes. Other lawful purposes are also included. Thus, traditional purposes such as lawful hunting and lawful recreation use would also be protected.

While the bearing of arms for a constitutionally protected purpose extends to open carrying, the bearing of arms concealed may be regulated by, for example, requiring a license to carry arms concealed. However, licensing would have to be equitably administered. Furthermore, the open carrying of arms may be prohibited in places such as classrooms, polling places, or at a public assembly.

The right to keep or bear arms for a constitutionally protected purpose may not be infringed. Thus, for example, laws banning the possession or sale of constitutionally protected arms, laws requiring a license to acquire or possess such arms, requiring the registration of such arms, or imposing special taxation on such arms would be impermissible.

The legislature retains the authority to define the lawful use of arms so as to protect the people from the misuse of arms. The types of misconduct that the legislature may forbid by defining the lawful use of arms are well-known and self-evident. Examples of such misconduct include using arms to commit robbery, carrying arms while intoxicated, using arms to harass, intimidate, or recklessly endanger someone, shooting in an unsafe place or manner, and poaching.

Vote "FOR" Proposition 5!

Senator Jack M. Bangerter
1177 East 500 North
Bountiful, Utah 84003

Representative Donna M. Can.
2440 East 5200 South
Salt Lake City, Utah 84121

Rebuttal to

Arguments in favor of Proposition No. 5

The argument is very ill-considered. It fails to take into account the basic fact that the subject is very thoughtfully dealt with in the constitution as it now reads.

The statement lists classes of persons who are said not to be assured rights under the provision. But that is not provided in the proposed amendment itself.

The statement undertakes to identify protected arms. It is so broad as to include Saturday-night specials. It speaks in unequivocal terms which amount to constitutional guarantees.

The fundamental infirmity of the statement is its declaration that the end to be attained by the "right" is to assure that arms may be kept for defensive purposes. Obviously it is not so confined.

The statement declares that, if adopted, the provision would preclude legislation requiring licenses to acquire or possess arms "for a constitutionally protected purpose" and would preclude laws requiring registration. Nothing could be more opposed to the public interest. Firearms are notoriously dangerous and as such should be registered, just as, of course, are motor vehicles. We know, in the case of the latter, that registration is vitally important to law enforcement and protection of public safety. With the aid of registration, responsible persons will be encouraged to exercise the requisite care, criminal activity may be prevented and persons engaged in crime may be apprehended. This applies as well to firearms.

Mr. Jefferson B. Farnham
Distinguished Professor of Law
College of Law

Arguments Against

The proposed Utah constitutional amendment as to firearms should not be approved by the voters. The present constitutional provision is quite well-considered. It recognizes a right to bear arms and, at the same time, empowers the legislature to regulate the subject. Nothing could be more evident than that organized society should be competent to protect the public safety against the unregulated availability of deadly weapons.

As the Supreme Court of the United States has made quite clear, the provisions of the Second Amendment to the Constitution of the United States concerning a right to bear arms relate to the availability of arms for citizen militia.

It would be no less than foolhardy to deny the representatives of the people adequate authority to protect the citizenry generally against the misuse of deadly weapons.

Certainly it should be clear that all of us in organized society have vital dependence upon our elected representatives to adopt reasonable measures to assure the public safety.

Vote "AGAINST" Proposition 5 as an unnecessary and unwise change in the Utah constitution!

Mr. Jefferson B. Fordham
Distinguished Professor of Law
College of Law
University of Utah
Salt Lake City, Utah 84112

Rebuttal to

Arguments against Proposition No. 5

Currently, Article I, Section 5 of the Utah Constitution not only grants a right, but allows the legislature to restrict the right. This leaves the provision open to a great deal of interpretation. Subsequently, in one recent Utah Supreme Court case dealing with this issue, the five justices wrote three different opinions as to what rights the citizens of Utah have and the extent those rights can be regulated. One of those opinions state that regulation to the point of complete prohibition is a proper exercise of legislative authority under Utah's current constitutional provision!

Therefore, Proposition 5 seeks to change the last clause of the current language from a grant of legislative authority to regulate the right to a recognition of the legislative power to define the lawful use of arms. It's a change that will not compromise the ability of the legislature to draft laws necessary to protect the populace from firearms misuse.

The amendment also acknowledges the right belongs to the individuals in society rather than the people as a whole and adds the right of keeping arms to the already recognized right to bear arms. In addition, Proposition 5 clarifies the reasons for keeping and bearing arms to include not only security and defense, but other lawful purposes such as hunting and target shooting.

Proposition 5 is needed to provide this and future generations of Utah citizens with a strong, positive guarantee of their individual right to keep and bear arms.

VOTE "FOR" Proposition 5!

Senator Jack M. Bangeman
1177 East 500 North
Bountiful, Utah 84003

Representative Donna M. Gar
2440 East 4000 South
Salt Lake City, Utah 84121